UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,856	12/21/2001	Alex Apollonsky	002659.P017	3345

7590   11/17/2006

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EXAMINER
ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
2165	

DATE MAILED: 11/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/028,856	APOLLONSKY ET AL.
	Examiner	Art Unit
	Neveen Abel-Jalil	2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *18 August 2006*.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-49* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-25, and 31-45* is/are rejected.

7) ☒ Claim(s) *26-30 and 46-49* is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Remarks

1.   The Response filed on August 18, 2006 have been received and entered. Claims 50-103

have been cancelled. Claims 1-49 are now pending.

Election/Restrictions

2.   Claims 50-103 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as

being drawn to a nonelected inventions II, III, IV, and V, there being no allowable generic or

linking claim. Election was made **without** traverse and cancelled in the reply filed on 8/18/2006.

Claim Objections

3.   Claims 21, and 23 are objected to because of the following informalities:

Claim 21, line 1, recite "may" and :maybe" which suggest optionally, passive recitation.

If the Applicant intended to have the remaining limitations after the "may" and "maybe" to be

considered fully and given complete patentable weight. The "may" and "maybe" recitation

should be changed to recite more firm and definite language (i.e. "are" or "is" or "will" or

"that"). Appropriate correction is required.

Claim 23, appears to be intended to be written as Markush type and as such, claim

language should state "selecting from the group consisting of" instead of "comprising". Use of

comprising rather than consisting of in such format is not permitted. Clarification is required.

Claim Rejections - 35 USC § 101

4.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
> any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
> requirements of this title.

5.   Claims 1, 39, and 45 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. That claims do not recite a practical application by

producing a physical transformation or producing a useful, concrete, and tangible result. To

perform a physical transformation, the claimed invention must transform an article of physical

object into a different state or thing. Transformation of data is not a physical transformation. A

useful, concrete, and tangible result must be either specifically recited in the claim or flow

inherently therefrom. To be useful the claimed invention must establish a specific, substantial,

and credible utility. To be concrete the claimed invention must be able to produce reproducible

results. To be tangible the claimed invention must produce a practical application or real world

result. In this case the claims fail to produce a tangible result because there is no outcome stored

or presented to the "to configure" recitation. There's no functionality actually taking place. The

configuration needs to be outputted and/or stored some place for subsequent use.

6.   Claims 1, 39, and 45 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. The claims are software per se only since they raise the

question to whether the host instance, remote configuration engine, and customer configuration

engine would all reasonably be interpreted by one of ordinary skill in the art in view of

Applicant's disclosure as potentially being software routines. If so, the claims includes an

embodiment directed to software, per se, since the claimed system lacks inclusion of the

hardware necessary for any of the underlying functionality to be realized. For those claims to be

statutory, at least one of the elements must include hardware in accordance with the disclosure.

Claim Rejections - 35 USC § 112

7.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

8.   Claims 23 and 31-32 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

The claim contains language within parenthesis which is indefinite since its unclear

whether that language is part of what is being sought to claim or if its an example given.

Correction is required.

The claim also recite "stage/cycle" renders the claim indefinite since its unclear why the

applicant is making a distinction if the intention is all along to include both instances of the

limitaion or its alternative.

Claims 31 and 32 recite the limitation "the delivery" and "the customer profile" in lines 2

and 3, respectively. There is insufficient antecedent basis for this limitation in the claims.

Claim Rejections - 35 USC § 102

9.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

10.   Claims 1-25, and 31-45 are rejected under 35 U.S.C. 102(e) as being anticipated by

Hartley et al. (U.S. Patent No. 6,532,465 B2).

As to claims 1, 39, and 45, Hartley et al. discloses a configuration architecture

comprising:

a host instance comprising a host application server and a host database schema (See

column 10, lines 1-20, also see column 10, lines 30-45);

a customer instance corresponding to a customer, wherein the customer instance

comprises a corresponding customer application server and a corresponding customer database

schema (See column 10, lines 1-20, also see column 10, lines 30-45);

a remote configuration engine for the host instance to receive host-defined data from a

content factory, wherein the host-defined data comprises host-defined content and

associated host-defined metadata (See column 7, lines 12-40); and

a customer configuration engine for the customer to configure the host-defined data and

host-defined rules, wherein the host-defined rules are generated by a host-based rules

engine (See column 7, lines 47-67).

As to claims 2, and 40, <u>Hartley et al.</u> discloses further comprises the host-based rules engine to generate the host-defined rules (See column 7, lines 47-67).

As to claims 3, and 41, <u>Hartley et al.</u> discloses further comprises a customer- based roles engine to generate customer-defined rules (See column 7, lines 47-67).

As to claim 4, <u>Hartley et al.</u> discloses wherein the host database schema comprises the following: host customer repository and host-defined data repository (See column 7, lines 47-67).

As to claim 5, <u>Hartley et al.</u> discloses wherein the host customer repository comprises a customer profile corresponding to the customer, wherein the customer profile comprises customer-related information provided by the customer (See column 14, lines 25-39).

As to claim 6, <u>Hartley et al.</u> discloses wherein the host-defined data repository comprises the following: host-defined shared content repository and host host-defined metadata repository (See column 8, lines 11-32).

As to claim 7, <u>Hartley et al.</u> discloses wherein the host-defined shared content repository comprises the host-defined content (See column 8, lines 11-32).

As to claim 8, <u>Hartley et al.</u> discloses wherein the host-defined content comprises host-defined document and host-defined process (See column 8, lines 11-32).

As to claim 9, <u>Hartley et al.</u> discloses wherein the host-defined document comprises host-related service-related material (See column 8, lines 11-32).

As to claim 10, <u>Hartley et al.</u> discloses wherein the host-defined process comprises the following: host-defined workflow model and host-defined project template (See column 7, lines 12-40).

As to claim 11, <u>Hartley et al.</u> discloses wherein the host host-defined metadata repository comprises the host-defined metadata (See column 8, lines 11-32).

As to claim 12, <u>Hartley et al.</u> discloses wherein the customer database schema comprises the following:

customer user repository, customer host-defined metadata repository, and customer-defined data repository (See Figure 3).

As to claim 13, <u>Hartley et al.</u> discloses wherein the customer user repository comprises a user profile corresponding to a user, wherein the user profile comprises user-related information provided by the user (See column 7, lines 47-64).

As to claim 14, <u>Hartley et al.</u> discloses wherein the customer host-defined metadata repository comprises host-defined metadata (See column 6, lines 1-24).

As to claim 15, <u>Hartley et al.</u> discloses wherein the customer-defined data repository comprises the following:

customer-defined content repository and customer-defined metadata repository (See column 7, lines 47-64).

As to claim 16, <u>Hartley et al.</u> discloses wherein the customer-defined content repository comprises customer-defined content (See column 7, lines 47-64).

As to claim 17, <u>Hartley et al.</u> discloses wherein the customer-defined content comprises customer-defined document and customer-defined process (See column 6, lines 1-24).

As to claim 18, <u>Hartley et al.</u> discloses wherein the customer-defined document comprises customer-defined service-related material (See column 3, lines 1-15).

As to claim 19, <u>Hartley et al.</u> discloses wherein the customer-defined process comprises the following: customer-defined workflow model and customer-defined project template (See column 6, lines 1-24).

As to claim 20, <u>Hartley et al.</u> discloses wherein the customer-defined metadata repository comprises customer-defined metadata (See column 3, lines 49-67).

As to claim 21, <u>Hartley et al.</u> discloses wherein the customer may access the host-defined data, wherein the access may be limited by permission from the host (See column 8, lines 58-67).

As to claim 22, <u>Hartley et al.</u> discloses wherein accessing the host-defined data comprises:

browsing the host-defined data (See column 4, lines 43-54, wherein "parameters" can be specified to include any from the listed);

searching the hog-defined data (See column 4, lines 43-54);

viewing the host-defined data (See column 4, lines 43-54); and

navigating the host-defined data (See column 4, lines 43-54).

As to claim 23, <u>Hartley et al.</u> discloses wherein the navigation of the host- defined data comprises:

navigating the host-defined data by category, wherein the category comprises marketing category (primary) and marketing subcategory (secondary) (See column 6, lines 9-24);

navigating the host-defined data by project stage/cycle, wherein the project stage/cycle includes plan, do, renew (See column 4, lines 43-54, wherein "parameters" can be specified to include any from the listed);

navigating the host-defined data by source, wherein the source comprise the host defined

data and the customer-defined data type (See column 4, lines 43-54); and

navigating the host-defined data by content type, wherein the content type comprises the

workflow model, project template, case study, wizard, checklist, and scorecard (See column 4,

lines 43-54, wherein "parameters" can be specified to include any from the listed).

As to claims 24, and 43, Hartley et al. discloses wherein the host instance and the

customer instance are physically integrated (See column 4, lines 55-67).

As to claims 25, and 44, Hartley et al. discloses wherein the host instance and the

customer instance are physically segregated (See Figure 2).

As to claim 31, Hartley et al. discloses wherein the host-defined rules govern the delivery

of the host-defined content and the associated host-defined metadata to the customer based on

the customer profile (See column 3, lines 15-35, wherein "customer profile" is "customization").

As to claim 32, Hartley et al. discloses wherein the host-defined rules govern the delivery

of the host-defined content and the associated host-defined metadata to the customer based on a

predetermined criteria (See column 3, lines 1-15).

As to claim 33, Hartley et al. discloses wherein the predetermined criteria comprises a

predetermined time period (See column 5, lines 50-58).

As to claim 34, <u>Hartley et al.</u> discloses wherein the predetermined criteria comprises a

predetermined content-based selection of the host-defined content (See column 4, lines 43-54).

As to claim 35, <u>Hartley et al.</u> discloses wherein the predetermined criteria comprises a

predetermined context-based selection of the host-defined content (See column 4, lines 43-54).

As to claim 36, <u>Hartley et al.</u> discloses wherein the predetermined criteria comprises a

predetermined selection of the host-defined metadata (See column 3, lines 1-15).

As to claim 37, <u>Hartley et al.</u> discloses wherein the predetermined criteria comprises

host-defined predetermined criteria (See column 4, lines 43-54).

As to claim 38, <u>Hartley et al.</u> discloses wherein the predetermined criteria comprises

customer-defined predetermined criteria (See column 3, lines 1-15).

As to claim 42, <u>Hartley et al.</u> discloses wherein each of the plurality of customer

instances comprises a plurality of user instances (See Figure 2).

Allowable Subject Matter

11.   Claims 26-30 and 46-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12.   Applicant's arguments with respect to claims 1-49 have been considered but are moot in view of the new ground(s) of rejection.
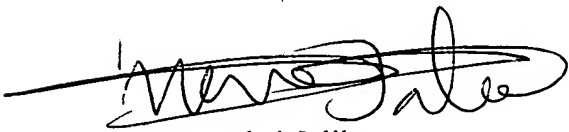
Conclusion

13.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on 571-272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Neveen Abel-Jalil
November 12, 2006